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DISCUSSION

Law as Ballet: a global pas de deux

MIRIAM AZIZ — 18 February, 2015

The modern dancer and choreographer Martha Graham once said, "Nothing is more revealing than movement". The reception of global law into domestic legal orders is first and foremost a cognitive device which exposes assumptions about, for example, the state, the rule of law, and human rights.

Implementation of international legal norms is an act of interpretation which is inherently creative, poised on the axis of dogma and innovation which construct competing claims to instrumental rationality, or to borrow from dance terminology, the 'perfect line'. Globalisation has reconfigured and recalibrated cognitive boundaries, which used to be drawn along more nationalistic lines.

The 'perfect line' in ballet refers to the lines of perfect alignment and placement of the body. We used to be able to contrast schools of dance (French, Italian, Russian, Danish etc) more clearly as we do now, as dancers

move from country to country during their training and during employment. As legal education has evolved through the pressures of the global market for legal services and legal scholarship, the sites of authority of training and practice have disaggregated and fragmented redrawing the cognitive boundaries of what constitutes the 'perfect line' of legal reasoning. Diverse approaches to understanding international law create the necessity to provide analytical tools to enable and facilitate discussion, debate and discourse in such a way that we avoid the risk of incoherence and unintelligibility.

As managing editor of the Max Planck Handbooks of Public Law in Europe ("*Ius Publicum Europaeum*", IPE) edited by Armin von Bogdandy, Sabino Cassese and Peter Huber and published by Oxford University Press (OUP), my job is to enable legal scholars from diverse legal cultures to engage with each other as well as the global readership in order to address the extent to which the European administrative legal space has evolved. The main indicator of change – and there are several – is space, both actual and virtual. For instance, where does the European Legal Space begin and where does it end? The analytical and the aesthetic tools we use to engage in a diverse and democratic scholarly discussion of this nature is also one which is imbued with cognitive assumptions that emerge when we realise that we may no longer take underlying foundations of our legal training for granted. Whether an author is making an argument or creating a case study of a domestic legal system, there are 'perfect lines' of geometrical logic in which our capacity to reason is housed. The editorial process undertaken by the editorial team at the Max Planck Institute for Comparative Public Law and International Law is a case in point. The team is made up of doctoral and post-doctoral scholars from a variety of European Union member states, who are engaged in editing contributions from international scholars in a similar vein of an editorial board of a US law review. The editorial process is fascinating, particularly when we as a team formulate our reader reports to the authors as we see time and time again how difference emerges in the choices we make as to what counts as a legitimate claim embedded in models of legal reasoning. We have gradually learned to adapt. We have needed to learn 'how to see', building on existing

schools of thought and deconstructing them so that we can reconstruct an editorial method that is both fluid, flexible and functional whilst avoiding chaos. Whilst innovation and improvisation emerge from chaos, they must be developed and consolidated in a coherent, structured manner. I argue that dance, and ballet in particular, and law share structural commonalities as an organising structure or grammar which enable and uncover different interpretations of what lies behind an argument or a choreographic phrase.

Just as Jennifer Homans, director of the Center for Ballet and the Arts at New York University (NYU) and the author of "Apollo's Angels: A History of Ballet" (Granta, 2010) regards ballet as the "grammar of movement", we might draw an analogy with administrative law as the "grammar of legal movement or implementation", which is a hostage to the cognitive choices made by their legal interpreters. Diversity of approach of how we engage with this question is a necessary device to aggregate different perceptions as variations on a theme. We may thereby discern the indicators as well as the independent variables that have redrawn the maps of a territory, the formalist contours of which have been rendered porous – and indeed questionable – through globalisation.

Both ballet and global administrative law provide devices to map the movement of the body through space as well as the movement of law through life. I regard both law and ballet as rule based theories of language. As regards the latter, not only is ballet's technique rule based (and diverse as each school of dance e.g. Vaganova or Cecchetti which have different styles and training methods) but there are also rules of 'relevance', so to speak, governing the coherence of a dancer's interpretation of choreography to best embody overall aesthetics and narratives which underwrite the choreographer's intention.

This intention emerges through the interplay of the choreography as it is imagined and how it is actually interpreted by the dancer, very much as the articulation of a body of law through, for example, the imaginations of the founding fathers of constitutions as well as their eventual implementation, both through 'case law, statute and beyond'. Indeed, lawyers trained in common law

systems have a different approach and understanding of how to interpret case law and statutes compared to lawyers trained in civil law systems.

In creating a dance piece, a choreographer connects and aggregates impressions, sensations and observations to accumulate a body of evidence, so to speak, to formulate a hypothesis both with and without the need to construct a narrative. This is similar to editing the legal prose of international scholars for the IPE to the extent that we witness and engage with the "*Gedankengang*" of others and how they affect the ideas and assumptions of the editors. Just as no two people walk the same way, nor do they think alike. Legal and dance training which are anchored in a structure predicated on certain priorities and values may promote a uniform 'way of thinking'; however, nuances are discernible and may in fact cut across attempts to categorise them according to national legal cultures. Globalisation of law as well as how we think about law has provoked and has been provoked by cross-fertilisation, which has made the 'matrix', so to speak, porous and permeable. From there, innovation may arise. However, there is also a need for a 'canon' of sources of principles which may guide the way we perceive, formulate and implement ideas about international law, sensitive of the parameters and the paradigms that have irrevocably and irretrievably shifted. In order to do this, we need to commit to enriching our engagement with the diversity of approaches to international law. We need to go back to the drawing board each day, just as a dancer takes ballet class, committing to the cause of the never ending permutations and combinations that a single movement – or idea of the movement -provokes.

The challenge is to render this collective reflection structured in such a way that it facilitates real, engaged dialogue as opposed to people speaking cross purposes or as a chorus barking a series of unilateral edicts or affirmations. Both law and dance teach us about the limits as well as the limitlessness of communication. They are but examples of theories of language which render visible the language games which shape the infinite cognitive choices and choreographies of how we perceive law.

A response to this text by Mareike Riedel can be found here and here is another response by Raphael Schäfer.

Miriam Aziz, LLB (Hons) PhD Barrister (Inner Temple) (non-practising) is a Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany.

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